IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6525 OF 2006

Shri Rajshekhar Nagnath Ghongade ..Petitioner

Vs.

Shri Gopinath Krishnath Deshmane ..Respondent

Mr.Surel S.Shah for the petitioner

Mr.Ashok B.Tajane for the respondent

CORAM : A.P.DESHPANDE, J

DATED : 22ND NOVEMBER, 2006

P.C.:

1. Rejection of two amendment applications and one more application to file a document on record, which is in a nature of partition deed, by the first appellate court has given rise to the filing of this writ petition.

2. One of the grounds on which the possession of the shop premises is claimed from the defendant is that the premises are required by the plaintiff for bonafide personal use and occupation. The trial court has rejected the suit on the said

ground, by recording a finding in the negative. Before the appellate court, the petitioner tried to bring on record the fact that in the year 2000 two of his sons got married and that the third son has got married sometime in the year 2005. What is to be seen is that in one breath the petitioner is claiming that he wants to start the shop / business in the tenanted premises after the same is vacated and in the other breath claims that on account of number of family members being increased, he needs the said premise allegedly for residential purpose. Two of the sons of the plaintiff got married when the suit was pending in the trial court and the said fact was not attempted to be brought on record by moving any application in that regard. So far as the issue of partition is concerned and / or the production of the partition deed, suffice it to state that the same is of the year 1948 and was very much in existence when the suit was filed.

3. No explanation much less satisfactory is forthcoming for non-filing of the said document in the trial court. The petitioner / plaintiff has not been diligent in taking prompt and timely steps

with a view to bring on record specific evidence and / or to place on record the partition deed at an appropriate time. Taking overall view of the matter, the first appellate court has rejected the applications moved by the petitioner.

4. I have perused the order. No interference is called for. In the result, writ petition is summarily dismissed.

(SHRI A.P.DESHPANDE, J)